

# HOUSE BILL No. 1152

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-5-2-48; IC 3-8; IC 3-10-2-7; IC 3-11-2-12; IC 4-2; IC 5-6-1-1; IC 5-8-3.5-1; IC 5-14-3-3.5; IC 33-15-1.

**Synopsis:** Clerk of the supreme court. Provides for the clerk of the supreme court to be appointed by the court rather than elected. Repeals an election law provision concerning residency of a candidate for office of clerk of the supreme court.

**Effective:** Upon passage; July 1, 2004.

**Mahern**

January 13, 2004, read first time and referred to Committee on Appointments and Claims.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1152

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A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 3-5-2-48 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2004]: Sec. 48. "State office" refers to governor,  
3 lieutenant governor, secretary of state, auditor of state, treasurer of  
4 state, superintendent of public instruction, attorney general, justice of  
5 the supreme court, judge of the court of appeals, **and** judge of the tax  
6 court. ~~and clerk of the supreme court.~~  
7       SECTION 2. IC 3-8-1-33 IS AMENDED TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A candidate for an office  
9 listed in subsection (b) must file a statement of economic interests.  
10       (b) Whenever a candidate for any of the following offices is also  
11 required to file a declaration of candidacy or is nominated by petition,  
12 the candidate shall file a statement of economic interests before filing  
13 the declaration of candidacy or declaration of intent to be a write-in  
14 candidate, before the petition of nomination is filed, before the  
15 certificate of nomination is filed, or before being appointed to fill a  
16 candidate vacancy under IC 3-13-1 or IC 3-13-2:  
17       (1) Governor, lieutenant governor, secretary of state, auditor of



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state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, ~~clerk of the supreme court~~, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with IC 33-2.1-8-6 and IC 33-2.1-8-7.

SECTION 3. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

- (1) Lieutenant governor.
- (2) Secretary of state.
- (3) Auditor of state.
- (4) Treasurer of state.
- (5) Attorney general.
- (6) Superintendent of public instruction.
- ~~(7) Clerk of the supreme court.~~

(b) The convention shall also:

- (1) nominate candidates for presidential electors and alternate electors; and
- (2) elect the delegates and alternate delegates to the national convention of the political party.

SECTION 4. IC 3-10-2-7, AS AMENDED BY P.L.122-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The following public officials shall be elected in 2002 and every four (4) years thereafter:

- (1) Secretary of state.
- (2) Auditor of state.
- (3) Treasurer of state.
- ~~(4) Clerk of the supreme court.~~

SECTION 5. IC 3-11-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:
  - (A) President and Vice President of the United States.
  - (B) United States Senator.
  - (C) Governor and lieutenant governor.
  - (D) Secretary of state.

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- 1 (E) Auditor of state.
- 2 (F) Treasurer of state.
- 3 (G) Attorney general.
- 4 (H) Superintendent of public instruction.
- 5 ~~(H) Clerk of the supreme court.~~
- 6 ~~(H)~~ (I) United States Representative.
- 7 (2) Legislative offices:
- 8 (A) State senator.
- 9 (B) State representative.
- 10 (3) Circuit offices and county judicial offices:
- 11 (A) Judge of the circuit court, and unless otherwise specified
- 12 under IC 33, with each division separate if there is more than
- 13 one (1) judge of the circuit court.
- 14 (B) Judge of the superior court, and unless otherwise specified
- 15 under IC 33, with each division separate if there is more than
- 16 one (1) judge of the superior court.
- 17 (C) Judge of the probate court.
- 18 (D) Judge of the county court, with each division separate, as
- 19 required by IC 33-10.5-4-2.
- 20 (E) Prosecuting attorney.
- 21 (F) Clerk of the circuit court.
- 22 (4) County offices:
- 23 (A) County auditor.
- 24 (B) County recorder.
- 25 (C) County treasurer.
- 26 (D) County sheriff.
- 27 (E) County coroner.
- 28 (F) County surveyor.
- 29 (G) County assessor.
- 30 (H) County commissioner.
- 31 (I) County council member.
- 32 (5) Township offices:
- 33 (A) Township assessor.
- 34 (B) Township trustee.
- 35 (C) Township board member.
- 36 (D) Judge of the small claims court.
- 37 (E) Constable of the small claims court.
- 38 (6) City offices:
- 39 (A) Mayor.
- 40 (B) Clerk or clerk-treasurer.
- 41 (C) Judge of the city court.
- 42 (D) City-county council member or common council member.

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- (7) Town offices:
- (A) Clerk-treasurer.
  - (B) Judge of the town court.
  - (C) Town council member.

SECTION 6. IC 4-2-1-1 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2004]: Sec. 1. The salary of the elected officials  
of the state is as follows:

- (1) For the governor, ~~the following salary:~~
- (A) ~~Before January 8, 2001, seventy-seven thousand two hundred dollars (\$77,200) per year.~~
  - (B) ~~After January 7, 2001, ninety-five thousand dollars (\$95,000) per year.~~
- (2) For the lieutenant governor, ~~the following salary:~~
- (A) ~~Before January 8, 2001, sixty-four thousand dollars (\$64,000) per year.~~
  - (B) ~~After January 7, 2001, seventy-six thousand dollars (\$76,000) per year.~~

However, the lieutenant governor is not entitled to receive per diem allowance for performance of duties as president of the senate.

- (3) For the secretary of state, ~~the following salary:~~
- (A) ~~Before January 1, 1999, forty-six thousand dollars (\$46,000) per year.~~
  - (B) ~~After December 31, 1998, sixty-six thousand dollars (\$66,000) per year.~~
- (4) For the auditor of state, ~~the following salary:~~
- (A) ~~Before December 1, 1998, forty-six thousand dollars (\$46,000) per year.~~
  - (B) ~~After November 30, 1998, sixty-six thousand dollars (\$66,000) per year.~~
- (5) For the treasurer of state, ~~the following salary:~~
- (A) ~~Before February 10, 1999, forty-six thousand dollars (\$46,000) per year.~~
  - (B) ~~After February 9, 1999, sixty-six thousand dollars (\$66,000) per year.~~
- (6) For the attorney general, ~~the following salary:~~
- (A) ~~Before January 1, 1999, fifty-nine thousand two hundred dollars (\$59,200) per year.~~
  - (B) ~~After December 31, 1998, seventy-nine thousand four hundred dollars (\$79,400) per year.~~
- (7) For the clerk of the supreme court, ~~the following salary:~~
- (A) ~~Before January 1, 1999, thirty-eight thousand dollars~~

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~~(\$38,000) per year.~~

~~(B) After December 31, 1998, before January 1, 2007, sixty thousand dollars (\$60,000) per year.~~

(8) For the state superintendent of public instruction, the following salary:

~~(A) Before January 1, 1999, sixty-three thousand one hundred dollars (\$63,100) per year.~~

~~(B) After December 31, 1998, seventy-nine thousand four hundred dollars (\$79,400) per year.~~

SECTION 7. IC 4-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The bond of the auditor of state shall be fixed at one hundred thousand dollars (\$100,000).

(b) The bond of the secretary of state **shall be fixed** at fifty thousand dollars (\$50,000).

(c) The bond of the attorney general **shall be fixed** at fifty thousand dollars (\$50,000). ~~and the clerk of the Supreme Court, at ten thousand dollars (\$10,000).~~

SECTION 8. IC 5-6-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The secretary of state, the auditor of state, the treasurer of state, ~~the clerk of the supreme court,~~ the sheriff of the supreme court, and every clerk of the circuit court may appoint deputies, when necessary or when required, if provision shall have been made for paying such deputies for their services from the funds of the state or of the county or from fees received for their services.

(b) Any such officer may require any deputy so appointed to give bond, in such amount as may be prescribed by law or as may be fixed by such officer, conditioned for the proper and faithful discharge of all ~~of his~~ official duties as such deputy, and for the safe accounting of all funds received by ~~him~~ **the deputy** or entrusted to ~~his~~ **the deputy's** care, control, or management.

SECTION 9. IC 5-8-3.5-1, AS AMENDED BY P.L.26-2000, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following,

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whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, ~~or attorney general. or clerk of the supreme court.~~

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge of a circuit, city, county, probate, superior, town, or township small claims court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

SECTION 10. IC 5-14-3-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

(1) Secretary of state.

(2) Auditor.

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- (3) Treasurer.
- (4) Attorney general.
- (5) Superintendent of public instruction.
- ~~(6) Clerk of the Supreme Court.~~

However, each state office described in subdivisions (1) through ~~(6)~~ **(5) and the judicial department of state government** may use the computer gateway administered by the intelnet commission established under IC 5-21-2, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

(1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).

(2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:

- (A) the third party; or
- (B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the intelnet commission established under IC 5-21-2, except as permitted by the data process oversight commission established under IC 4-23-16-1.

SECTION 11. IC 33-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The supreme court shall appoint a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election.~~** **The individual appointed serves at the pleasure of the supreme court.**

(b) The clerk shall execute a bond in ~~the sum of two thousand dollars (\$2,000):~~ **an amount directed by the supreme court.**

(c) **The clerk shall be paid a salary determined by the supreme**

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1 court.

2 (d) In addition to the powers and duties prescribed by law, the  
3 clerk has the powers and duties determined by the supreme court.

4 SECTION 12. IC 33-15-1-7 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~Such~~ The clerk at  
6 the expiration of his term, shall hand over to his the clerk's successor  
7 all the books and papers of his the office.

8 SECTION 13. IC 3-8-1-11.5 IS REPEALED [EFFECTIVE JULY  
9 1, 2004].

10 SECTION 14. [EFFECTIVE UPON PASSAGE] (a) As used in this  
11 SECTION, "incumbent" refers to an individual appointed by the  
12 governor before March 15, 2004, to fill a vacancy in the office of  
13 the clerk of the supreme court.

14 (b) Notwithstanding IC 33-15-1-1, as amended by this act, the  
15 incumbent is entitled to hold the office of clerk of the supreme  
16 court before January 1, 2007, unless the incumbent resigns or is  
17 removed from office as provided by law.

18 (c) If the office of the clerk of the supreme court becomes vacant  
19 after March 14, 2004, the supreme court shall appoint an  
20 individual to be the clerk of the supreme court as provided in  
21 IC 33-15-1-1, as amended by this act.

22 (d) The office of the clerk of the supreme court maintains its  
23 status as a state office under the authority of the incumbent until  
24 the earlier of the following:

25 (1) January 1, 2007.

26 (2) The supreme court appoints an individual to be clerk of  
27 the supreme court as provided in subsection (c).

28 (e) An individual appointed by the governor to the office of clerk  
29 of the supreme court must execute a bond in the amount of ten  
30 thousand dollars (\$10,000).

31 (f) Notwithstanding IC 5-6-1-1, as amended by this act, the clerk  
32 of the supreme court may appoint deputies and require the  
33 individuals appointed as deputies to post bond as provided by law  
34 in effect at the time any appointment is made.

35 (g) Notwithstanding IC 5-8-3.5-1, as amended by this act, an  
36 individual who wants to resign the office of clerk of the supreme  
37 court must resign as provided by law in effect at the time the  
38 individual wants to resign the office.

39 (h) Notwithstanding IC 5-14-3-3.5, as amended by this act, the  
40 clerk of the supreme court may use the computer gateway  
41 administered by the intelenet commission established under  
42 IC 5-21-2, subject to the requirements of IC 5-14-3-3.5, as in effect

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- 1 **after June 30, 2004.**
- 2 **(i) This SECTION expires January 1, 2007.**
- 3 **SECTION 15. An emergency is declared for this act.**

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